

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel DiRocco	Team: Team # 3	CCRB Case #: 201101428	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/02/2011 8:00 PM	Location of Incident: East Fordham Road and Tiebout Avenue	Precinct: 46	18 Mo. SOL 8/2/2012	EO SOL 8/2/2012	
Date/Time CV Reported Thu, 02/03/2011 12:41 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 02/03/2011 1:14 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Raul Maisonet	05050	939385	PBBX
2. SGT James Galvin	01328	925328	PBBX
3. POM Anthony Donato	07509	948904	PBBX
4. SGT Sasha Rosen	05061	929087	PBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas Golden	25908	947727	046 PCT
2. POM Eugene Donnelly	11586	948906	PBBX
3. POM Andrew Grezes	28881	949061	PBBX
4. SGT Jude Sciarillo	02994	926093	PBBX
5. POM Sean Monahan	10540	947264	046 PCT
6. POM Brendan Cronin	23061	946883	046 PCT
7. POM John Ferrara	02628	948959	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.SGT Raul Maisonet	Abuse: Sergeant Raul Maisonet supervised the search of § 87(2)(b)	
B.SGT Sasha Rosen	Abuse: Sergeant Sasha Rosen supervised the search of § 87(2)(b)	
C.SGT James Galvin	Abuse: Sergeant James Galvin supervised the search of § 87(2)(b)	
D.POM Anthony Donato	Abuse: Officer Anthony Donato searched § 87(2)(b)	
E.SGT Raul Maisonet	Abuse: Sergeant Raul Maisonet supervised the search of the vehicle in which § 87(2)(b) was an occupant.	
F.SGT Sasha Rosen	Abuse: Sergeant Sasha Rosen supervised the search of the vehicle in which § 87(2)(b) was an occupant.	
G.SGT James Galvin	Abuse: Sergeant James Galvin supervised the search of the vehicle in which § 87(2)(b) was an occupant.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

### Case Summary

§ 87(2)(b) filed this complaint with the CCRB via the agency's website on February 3, 2011 [enclosed 3A-3C].

At some time between 8 p.m. and 9 p.m. on February 2, 2011, multiple uniformed officers in a marked police van stopped § 87(2)(b)'s vehicle near Fordham Road and Tiebout Avenue in the Bronx. The following allegations resulted:

- **Allegation A—Abuse of Authority: Sergeant Raul Maisonet supervised the search of § 87(2)(b)**
- **Allegation B—Abuse of Authority: Sergeant Sasha Rosen supervised the search of § 87(2)(b)**
- **Allegation C—Abuse of Authority: Sergeant James Galvin supervised the search of § 87(2)(b)**
- **Allegation D—Abuse of Authority: Officer Anthony Donato searched § 87(2)(b)**
- **Allegation E—Abuse of Authority: Sergeant Raul Maisonet supervised the search of the vehicle in which § 87(2)(b) was an occupant.**
- **Allegation F—Abuse of Authority: Sergeant Sasha Rosen supervised the search of the vehicle in which § 87(2)(b) was an occupant.**
- **Allegation G—Abuse of Authority: Sergeant James Galvin supervised the search of the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(g)

- § 87(4-b) § 87(2)(g)

This case was originally assigned to Investigator Katelyn Williams. On November 10, 2011, following Investigator Williams' departure from the CCRB, the case was reassigned to Investigator Evelis Otero. On January 30, 2012, the case was reassigned to the undersigned investigator.

§ 87(2)(b) rejected mediation when Investigator Williams presented it to him during his sworn statement at the CCRB on February 11, 2011.

### Results of Investigation

#### Civilian Statements

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b) a Hispanic male who was § 87(2)(b) old at the time of the incident. He stands at 5'11" tall and weighs 200 pounds. § 87(2)(b) has brown hair and hazel eyes.

### **CCRB Testimony**

§ 87(2)(b) provided a telephone statement to the CCRB on February 4, 2011 [enclosed 5] and appeared in-person to provide a sworn statement to the CCRB on February 11, 2011 [enclosed 6A-6E]. § 87(2)(g)

At approximately 9:10 p.m. on February 2, 2011, § 87(2)(b) en route to a local gym, was driving his friend's Chevy Tahoe towards East Fordham Road and Tiebout Avenue in the Bronx. § 87(2)(b) was alone in the vehicle and one of the vehicle's brake lights was not functioning properly.

Prior to reaching the aforementioned intersection, § 87(2)(b) stopped at a traffic light on East Fordham Road and Valentine Avenue. As he did so, a marked police van inscribed with "PBBX 10" and additional numbering that § 87(2)(b) could not recall, pulled up next to him. When the traffic light turned green, § 87(2)(b) proceeded to drive straight towards Tiebout Avenue. The police van followed behind, activated its turret lights, and stopped § 87(2)(b)'s vehicle.

Once § 87(2)(b) pulled to the side of the road, four or five uniformed officers exited the police van and approached § 87(2)(b)'s vehicle. Three officers walked to the front driver's side of the vehicle and one or two officers walked to the front passenger's side.

Amongst the officers on the front driver's side were a uniformed officer whom § 87(2)(b) described as a white male, 26-years-old, 5'11" tall, 175 pounds, brown hair, no facial hair [identified via investigation as Officer Anthony Donato of Patrol Borough Bronx], and PO2, an unidentified uniformed officer whom § 87(2)(b) described as a white male, 28-years-old, 5'10" tall, medium build, wearing a winter hat (hair not visible), no facial hair.

Officer Donato requested § 87(2)(b)'s license and registration, which § 87(2)(b) provided. Officer Donato then asked § 87(2)(b) where he was going, where he lived, whose car he was driving, and why he was fidgeting. § 87(2)(b) informed Officer Donato that he was driving his friend's vehicle and that he felt nervous in the presence of multiple officers. At that point, PO2 told Officer Donato to remove § 87(2)(b) from the vehicle.

Upon hearing PO2's comment, § 87(2)(b) opened the front driver's side door and stepped out of the vehicle. Officer Donato escorted § 87(2)(b) to the rear of the vehicle. There, § 87(2)(b) saw an officer whom he described as a Hispanic male, 26-years-old, 5'11" tall, medium build, no facial hair, uniformed with three sergeant's chevrons on his sleeve, whom the investigation identified as Sergeant Raul Maisonet of Patrol Borough Bronx. § 87(2)(b) did not interact with Sergeant Maisonet.

While at the rear of the vehicle, Officer Donato instructed § 87(2)(b) to unzip his jacket and § 87(2)(b) complied. Officer Donato placed his hands directly into § 87(2)(b)'s jacket pockets and pants pockets. § 87(2)(b) did not believe that Officer Donato patted him down.

As the above occurred, PO2 entered the front driver's side of § 87(2)(b)'s vehicle and another officer, whom § 87(2)(b) could not see clearly, entered the front passenger's side. § 87(2)(b) did not see what the officers did while inside of the vehicle.

PO2 subsequently exited the vehicle and walked to the rear of the vehicle by § 87(2)(b). At that point, § 87(2)(b) believed, though he was not sure, that he saw another unidentified officer, PO3, whom he could only describe as a white male, 5'10" tall, medium build, uniformed with three sergeant's chevrons on his sleeves, standing next to the front passenger's side.

While at the back of the vehicle, PO2 opened the vehicle's two rear doors. § 87(2)(b) did not see what PO2 did from thereonin because Officer Donato placed his hand on his holstered gun, prompting § 87(2)(b) to look away from PO2 and at Officer Donato. § 87(2)(b) later discovered that his gym bag, which was in the back of the vehicle, had been opened.

Soon after, Officer Donato brought § 87(2)(b) back to the front driver's seat. Officer Donato went to the police van and returned with § 87(2)(b)'s identification a few minutes later.

Officer Donato told § 87(2)(b) that the officers were “giving [him] a break” by not summoning him for the broken brake light. The officers left the location without providing § 87(2)(b) with any documentation. The incident lasted roughly 15 minutes.

### **Photo Viewing**

According to the NYPD’S Management Information Systems Division (MISD) [enclosed 35A-35D], Sergeant Maisonet performed a search of § 87(2)(b)’s name and license plate number via the NYPD’s NYSPIN database at 8:55 p.m. on the date of incident. Consultation with the 46<sup>th</sup> Precinct’s tour 3 roll call revealed that Sergeant Maisonet acted as Impact Supervisor and was assigned to marked patrol van number 5967 at the time of incident. The roll call indicated that a Precinct Conditions Team was assigned to this van with Sergeant Maisonet. The Conditions Team consisted of the following officers, all of the 46<sup>th</sup> Precinct: Officer Sean Monahan, Officer Anthony Fiol, Officer Kevin Major, Officer Thomas Golden, and Officer Brendan Cronin. In addition, the roll call noted that the following sergeants, of Patrol Borough Bronx, were on patrol supervision in the 46<sup>th</sup> Precinct without a documented vehicle assignment: Sergeant James Galvin, Sergeant Sasha Rosen, Sergeant William Arndt, and Sergeant Jude Sciarillo.

On June 1, 2011, § 87(2)(b) appeared at the CCRB for a photo viewing [enclosed 7A-7L] and was presented with single-shot color photographs of the above officers, which were sequentially numbered in the following order: Officer Brendan Cronin, Officer Anthony Fiol, Officer Sean Monahan, Officer Kevin Major, Officer Thomas Golden, Sergeant Raul Maisonet, Sergeant James Galvin, Sergeant Jude Sciarillo, Sergeant Sasha Rosen, and Sergeant William Arndt.

After examining the photos, § 87(2)(b) identified Sergeant Maisonet as the officer who stood by the rear of the vehicle while he was interacting with PO1. § 87(2)(b) believed that Sergeant Galvin “might have been present,” but could not specify in what capacity.

Furthermore, § 87(2)(b) stated that either Officer Cronin or Officer Monahan “could have been” the officer who initially approached the vehicle. He recognized Officer Golden as the officer who ordered him to step out of the vehicle. § 87(2)(b) did not recognize the other officers.

### **NYPD Statements**

#### **Subject Officer: SERGEANT RAUL MAISONET**

- *Sergeant Maisonet is a § 87(2)(b)-old Hispanic male. He stands at 5’9” tall and weighs 185 pounds. Sergeant Maisonet has black hair and hazel eyes.*
- *On February 2, 2011, Sergeant Maisonet, of Patrol Borough Bronx, was dressed in uniform and was assigned to the 46<sup>th</sup> Precinct’s Impact Response Team. Sergeant Maisonet was partnered with Sergeant Sasha Rosen, Sergeant James Galvin, Officer Anthony Donato, Officer Eugene Donnelly, and Officer Andrew Grege, all of Patrol Borough Bronx, in marked patrol van number 8610. Sergeant Maisonet worked from 3:50 p.m. on February 2, 2011 to 2:47 a.m. on February 3, 2011.*

### **Memo Book Entries**

Sergeant Maisonet had no memo book entries regarding the incident [enclosed 11A-11C]. At 5:10 p.m., Sergeant Maisonet was assigned to marked patrol van number 8610 with Sergeant Rosen, Sergeant Galvin, Officer Donato, Officer Donnelly, and Officer Grege. At 2:47 a.m., Sergeant Maisonet marked the end of his tour.

### **CCRB Testimony**

Sergeant Maisonet was interviewed at the CCRB on April 28, 2011 [enclosed 10A-10B]. His statement is summarized below.

Sergeant Maisonet did not recall the incident. He was presented with a color photocopy of § 87(2)(b)'s New York State identification and the NYSPIN results. He was also briefed on the nature of the incident. None of these steps assisted his recollection.

### **Subject Officer: SERGEANT SASHA ROSEN**

- *Sergeant Rosen is a § 87(2)(b)-old white male. He stands at 5'9" tall and weighs 200 pounds. Sergeant Rosen is completely bald and has green eyes.*
- *On February 2, 2011, Sergeant Rosen, of Patrol Borough Bronx, was dressed in uniform and was assigned to the 46<sup>th</sup> Precinct's Impact Response Team. Sergeant Rosen believed, though he was not sure, that he was partnered with Officer Thomas Golden, of the 46<sup>th</sup> Precinct, in marked patrol van number 8610. Sergeant Rosen worked from 3:50 p.m. on February 2, 2011 to 12:47 a.m. on February 3, 2011.*

### **Memo Book Entries**

Sergeant Rosen had no memo book entries regarding the incident [enclosed 11A-11C]. At 3:50 p.m., he was assigned to marked patrol van number 8610. At 6:30 p.m., he noted an arrest by Officer Andrew Greges. At 7:15 p.m., he noted an arrest by Officer John Ferrara. At 12:47 a.m., Sergeant Rosen marked the end of his tour.

### **CCRB Testimony**

Sergeant Rosen was interviewed at the CCRB on August 11, 2011 [enclosed 13A-13B]. His statement is summarized below.

Sergeant Rosen did not recall the incident. He was presented with a color photocopy of § 87(2)(b)'s New York State identification and was briefed on the nature of the incident. None of these steps assisted his recollection.

### **Subject Officer: SERGEANT JAMES GALVIN**

- *Sergeant Galvin is a § 87(2)(b)-old white male. He stands at 5'10" tall and weighs 182 pounds. Sergeant Galvin has brown hair and blue eyes.*
- *On February 2, 2011, Sergeant Galvin, of Patrol Borough Bronx, was dressed in uniform and was assigned to the 46<sup>th</sup> Precinct's Impact Response Team. Sergeant Galvin did not know with whom he was partnered, but he was assigned to marked patrol van number 8610. Sergeant Galvin worked from 3:20 p.m. on February 2, 2011 to 12:05 a.m. on February 3, 2011.*

### **Memo Book Entries**

Sergeant Galvin had no memo book entries regarding the incident [enclosed 18A-18B]. At 5:00 p.m., Sergeant Galvin was assigned to marked patrol van number 8610. At 6:30 p.m., he noted an arrest on East 183<sup>rd</sup> Street and Walton Avenue. At 7:15 p.m., Sergeant Galvin noted an arrest on East Burnside Avenue and Creston Avenue. Sergeant Galvin marked the end of his tour at 12:05 a.m.

### **CCRB Testimony**

Sergeant Galvin was interviewed at the CCRB on May 1, 2012 [enclosed 20A-20B]. His statement is summarized below.

Sergeant Galvin did not recall the incident. Sergeant Galvin confirmed that he was in marked patrol van number 8610 at 7:15 p.m., during the arrest on East Burnside Avenue and Creston Avenue. He did not recall any details of the arrest. Sergeant Galvin was presented with a color photocopy of § 87(2)(b)'s New York State identification and was briefed on the nature of the incident. None of these steps assisted his recollection.

**Witness Officer: OFFICER ANTHONY DONATO**

- *Officer Donato is a § 87(2)(b)-old white male. He stands at 5'8" tall and weighs 265 pounds. Officer Donato has black hair and brown eyes.*
- *On February 2, 2011, Officer Donato, of Patrol Borough Bronx, was dressed in uniform and was assigned to the 46<sup>th</sup> Precinct's Impact Response Team. Officer Donato was partnered with Sergeant Raul Maisonet, Sergeant James Galvin, Sergeant Sasha Rosen, Officer Eugene Donnelly, and Officer Andrew Greges, all of Patrol Borough Bronx, in marked patrol van number 8610. Officer Donato worked between the hours of 4:00 p.m. on February 2, 2011 and 12:35 a.m. on February 3, 2011.*

**Stop, Question, and Frisk Report**

Officer Donato prepared the stop, question, and frisk report corresponding to the incident [enclosed 14A-14B]. The incident occurred at 8:00 p.m. and lasted five minutes. § 87(2)(b) was stopped in suspicion of robbery. The circumstances leading to the stop were as follows: actions indicative of casing victim or location, furtive movements, and area has high incidence of reported offense. § 87(2)(b) was also frisked on the following bases: verbal threats by suspect and actions indicative of engaging in violent crimes. § 87(2)(b) was not searched. One or more officers placed their hands on § 87(2)(b) in self-defense.

**Memo Book Entries**

At 5:10 p.m., Officer Donato noted his assignment to marked patrol van number 8610 with Sergeant Maisonet, Sergeant Galvin, Sergeant Rosen, Officer Donnelly, and Officer Greges. At 7:07 p.m., Officer Donato noted a car stop at 2188 Creston Avenue, which led to the issuance of a desk appearance ticket by Officer John Ferrara. At 8:00 p.m., Officer Donato noted the preparation of a stop, question, and frisk report for § 87(2)(b) on East 182<sup>nd</sup> Street and Grand Concourse. At 12:15 a.m., Officer Donato returned to the 46<sup>th</sup> Precinct stationhouse per Sergeant Rosen's authorization. Officer Donato marked his end of tour at 12:35 a.m. [enclosed 15A-15B].

**CCRB Testimony**

Officer Donato was interviewed at the CCRB on March 27, 2012 [enclosed 17A-17B]. His statement is summarized below.

Officer Donato did not recall the incident. He was presented with a color photocopy of § 87(2)(b)'s New York State identification and the stop, question, and frisk report that he prepared. He was also briefed on the nature of the incident. None of these steps assisted his recollection.

**Witness Officer: OFFICER EUGENE DONNELLY**

- *Officer Donnelly is a § 87(2)(b)-old white male. He stands at 5'8" tall and weighs 160 pounds. Officer Donnelly has blonde hair and blue eyes.*
- *On February 2, 2011, Officer Donnelly, of Patrol Borough Bronx, was dressed in uniform and was assigned to the 46<sup>th</sup> Precinct's Impact Response Team. Officer Donnelly was partnered with Officer Andrew Greges and Officer Anthony Donato, both of Patrol Borough Bronx, in marked patrol van number 8610. His supervisors were Sergeant James Galvin and Sergeant Raul Maisonet, both also of Patrol Borough Bronx. Officer Donnelly worked from 4:00 p.m. on February 2, 2011 to 12:35 a.m. on February 3, 2011.*

**Memo Book Entries**

Officer Donnelly had no memo book entries regarding the incident [enclosed 21A-21B]. At 5:15 p.m., Officer Donnelly noted his assignment to marked patrol van number 8610. His partners were Officer Greges and Officer Donato. His supervisors were Sergeant Galvin and Sergeant Maisonet. At 6:02 p.m., Officer Donnelly noted a stop on the corner of West 183<sup>rd</sup> Street and Davidson Avenue. At 7:15 p.m., Officer Donnelly noted another stop on West 183<sup>rd</sup> Street and Davidson Avenue. At 11:10 p.m., Officer Donnelly noted a stop on East 183<sup>rd</sup> Street and Grand Concourse. Officer Donnelly returned to the 46<sup>th</sup> Precinct at 12:10 a.m.

**CCRB Testimony**

Officer Donnelly was interviewed at the CCRB on April 11, 2012 [enclosed 23A-23B]. His statement is summarized below.

Officer Donnelly did not recall the incident. He was presented with a color photocopy of § 87(2)(b)'s New York State identification and the stop, question, and frisk report. He was also briefed on the nature of the incident. None of these steps assisted his recollection. Officer Donnelly testified that while Sergeant Galvin and Sergeant Maisonet were assigned as his supervisors, he was unsure if they were in the marked van with him.

**Additional Officers Interviewed**

Officer John Ferrara, of Patrol Borough Bronx, who was assigned to footpost number 32 in the 46<sup>th</sup> Precinct's Impact Response Zone on the date of incident, was interviewed at the CCRB on May 4, 2012 [enclosed 25A-25B]. In his memo book [enclosed 24A-24D], Officer Ferrara noted that he was assigned an arrest by Sergeant Maisonet at 7:30 p.m. and that he arrived at the 46<sup>th</sup> Precinct stationhouse to complete arrest processing at 7:40 p.m. Officer Ferrara was informed by Officer Donato that marijuana was recovered from the arrestee's vehicle. In his CCRB statement, Officer Ferrara testified that he was not present for the arrest and that he could not independently recall interactions with any officers regarding the arrest.

Because, during his photo viewing, § 87(2)(b) acknowledged the possibility that Officer Thomas Golden, Officer Brendan Cronin, and Officer Sean Monahan, all of the 46<sup>th</sup> Precinct, might have been present for the incident, the CCRB obtained statements and memo books from each of these officers [enclosed 26, 27A-27B, 28A-28C, 29A-29B, 30A-30C, and 31A-31B]. All of their statements and memo book entries were consistent. The officers did not work with Sergeant Maisonet. They were assigned to Precinct Conditions and partnered with one another in marked patrol van 5967. None of the officers were present for the incident.

**Officer Not Interviewed**

While Officer Andrew Greges, of Patrol Borough Bronx, was assigned to the same vehicle as Sergeant Maisonet on the date of incident, Officer Greges' memo book [enclosed 32A-32C] indicates that from 6:30 p.m. through the end of his tour at 2:35 a.m., he was at the 46<sup>th</sup> Precinct

stationhouse processing an arrest. As such, he was not present for the incident and the investigation did not obtain a statement from him.

### **NYPD Documents**

#### **Management Information Systems Division (MISD)**

On March 16, 2011, the NYPD's MISD confirmed that Sergeant Maisonet performed a warrant search for § 87(2)(b) and ran § 87(2)(b)'s license plate at roughly 8:55 p.m. on the date of incident [enclosed 35A-35D].

#### **46<sup>th</sup> Precinct Roll Call**

According to the 46<sup>th</sup> Precinct's tour 3 roll call for February 2, 2011 [enclosed 33A-33M], Sergeant Maisonet, listed as a Precinct Impact Supervisor, was originally assigned to marked patrol van number 5967. However, as noted in his memo book, Sergeant Maisonet was actually assigned to marked patrol van number 8610 on the date of incident. As per the roll call, also assigned to marked patrol van number 5967 was the 46<sup>th</sup> Precinct's Conditions Team, which consisted of Officer Golden, Officer Cronin, Officer Fiola, Officer Monahan, and Officer Major

Additionally, Officer Donato, Officer Donnelly, and Officer Grege, all listed as Impact Trainee Officers, were assigned to marked patrol van number 8610. A supervising officer was not assigned to this vehicle based on the roll call.

Sergeant Rosen, Sergeant Galvin, Sergeant Sciarillo, and Sergeant Arndt, all listed as Precinct Impact Supervisors, were not assigned partners or operators, nor were they assigned to a motor vehicle.

#### **Status of Civil Proceedings**

- As of May 11, 2012, approximately one year following the expiration date, § 87(2)(b) had not filed a Notice of Claim with the City of New York with regard to the incident [enclosed 38A-38B].

#### **Civilian Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Civilian CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) [enclosed 2].

#### **Subject Officers CCRB Histories**

- Sergeant Raul Maisonet has been a member of the service for 6 years and Sergeant James Galvin has been a member of the service for 12 years. There are no substantiated CCRB allegations against either of the officers [enclosed 1A and 1E].
- Sergeant Sasha Rosen has been a member of the service for 10 years and there are six substantiated CCRB allegations against him [enclosed 1B-1D].
  - In CCRB case number 200901145, an allegation of abuse of authority: questioned was substantiated. The NYPD issued "Instructions" in August 2010.
  - In CCRB case number 200904983, an allegation of abuse of authority: vehicle search was substantiated. The NYPD issued "Instructions" in August 2010.
  - In CCRB case number 201001405, an allegation of abuse of authority: stopped was substantiated. The NYPD issued "Instructions" in July 2011.



- In CCRB case number 201002110, allegations of abuse of authority: stopped and retaliatory summons were substantiated. The NYPD declined to prosecute in August 2011.
- In CCRB case number 201009643, an allegation of abuse of authority: questioned was substantiated. The NYPD issued “Instructions” in February 2012.

## Conclusion

### Identification of Subject Officers

§ 87(2)(b) described the officers’ vehicle as a marked patrol van belonging to “PBBX” [Patrol Borough Bronx] with the number “10,” amongst other numbers that he did not recall, written on its side.

Despite Officer Donato’s inability to recall the incident, all available evidence places him at the location. Officer Donato prepared a stop, question, and frisk report for § 87(2)(b) and recorded a corresponding entry in his memo book. Additionally, Officer Donato testified that, on the date of incident, he was assigned to marked patrol van number 8610, which conforms to the vehicle description that § 87(2)(b) provided. Because § 87(2)(b) described the officer who searched him as a 26-year-old white male, 5’11” tall, 175 pounds, brown hair, uniformed, which closely matches Officer Donato’s physical appearance, and because Officer Donato prepared the stop, question, and frisk report, a search of person allegation is pleaded against Officer Donato.

Aside from Officer Donato, the investigation conclusively determined that Sergeant Maisonet was present for the incident. § 87(2)(b) provided a matching physical description, including the sergeant’s chevrons on Sergeant Maisonet’s sleeve, and identified Sergeant Maisonet in a photo viewing four months after the incident. Additionally, Sergeant Maisonet queried § 87(2)(b)’s name for active warrants via an NYPD database within one hour of the vehicle stop. Finally, Sergeant Maisonet noted in his memo book that he was assigned to the same vehicle as Officer Donato—marked patrol van number 8610.

Both Sergeant Maisonet’s and Officer Donato’s memo books confirm that, as of 5:10 p.m. on the date of incident, Sergeant Galvin, Sergeant Rosen, Officer Donnelly, and Officer Grege were with them in marked patrol van number 8610. Officer Grege is removed from this pool of officers at 6:30 p.m. as he returned to the 46<sup>th</sup> Precinct stationhouse for the duration of his tour to complete arrest processing.

At 7:15 p.m., Sergeant Galvin and Sergeant Rosen noted an arrest on East Burnside Avenue and Creston Avenue in their memo books. Officer Ferrara, who was working a nearby footpost, was assigned the processing of this arrest by Sergeant Maisonet and informed of pertinent details regarding the arrest by Officer Donato. Because Sergeant Rosen and Sergeant Galvin documented this arrest in their memo books and because Sergeant Maisonet and Officer Donato were involved in this arrest, it is clear that all four of these officers were still with one another in the patrol van as of 7:15 p.m.—roughly 45 minutes before the incident.

Sergeant Galvin and Sergeant Rosen did not make any further memo book entries, including a vehicle or partner change, following the aforementioned arrest. Officer Donato noted in his memo book that at 12:15 a.m., Sergeant Rosen authorized him to return to his command, suggesting that Sergeant Rosen was still with Officer Donato in the patrol van at that time. In addition, while he was not certain, § 87(2)(b) believed, after viewing photos, that Sergeant Galvin was present for the incident.

§ 87(2)(g)

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Contrary to these officers, Officer Donnelly recorded a stop in his memo book at 7:15 p.m. on West 183<sup>rd</sup> Street and Davidson Avenue. This discrepancy places Officer Donnelly ½ mile away from the arrest location [see mapquest.com printout; enclosed 36A-36B] on East Burnside Avenue and Creston Avenue. Officer Donnelly did not note in his memo book with whom, if anyone, he executed this stop, or how or when he separated from the other officers. He did not record his next memo book entry until 11:10 p.m.—a stop on East 181<sup>st</sup> Street and Grand Concourse, which none of the other officers referenced in their memo books. Consequently, there is insufficient evidence to link Officer Donnelly to the incident.

Even though the investigation was able to account for the presence of Sergeant Maisonet, Officer Donato, Sergeant Galvin, and Sergeant Rosen at the incident location, it could not attribute actions to Sergeant Galvin and Sergeant Rosen due to the limited and generic physical descriptions that § 87(2)(b) provided. § 87(2)(g)

## **Investigative Findings and Recommendations**

### **Allegations Not Pleaded**

§ 87(2)(g)

§ 87(2)(b) alleged that Officer Donato performed an immediate search of his person. The stop, question, and frisk report notes that § 87(2)(b) was frisked. However, because § 87(2)(b) did not allege a frisk, a frisk allegation is not pleaded.

**Allegation A—Abuse of Authority: Sergeant Raul Maisonet supervised the search of § 87(2)(b)**

**Allegation B—Abuse of Authority: Sergeant Sasha Rosen supervised the search of § 87(2)(b)**

**Allegation C—Abuse of Authority: Sergeant James Galvin supervised the search of § 87(2)(b)**

**Allegation D—Abuse of Authority: Officer Anthony Donato searched § 87(2)(b)**

**Allegation E—Abuse of Authority: Sergeant Raul Maisonet supervised the search of the vehicle in which § 87(2)(b) was an occupant.**

**Allegation F—Abuse of Authority: Sergeant Sasha Rosen supervised the search of the vehicle in which § 87(2)(b) was an occupant.**

**Allegation G—Abuse of Authority: Sergeant James Galvin supervised the search of the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) alleged that Officer Donato escorted him to the rear of the vehicle where Officer Donato searched his pockets. § 87(2)(b) testified that, at around that time, multiple officers entered the front driver's and passenger's sides of the vehicle as well as the rear of the vehicle.

None of the officers present—Sergeant Maisonet, Officer Donato, Sergeant Rosen, and Sergeant Galvin—had any recollection of the incident. The stop, question, and frisk report indicates that § 87(2)(b) was stopped in suspicion of robbery and frisked but not searched.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date